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cannot but feel how little worth what is written about Dante possesses, save as it makes him and his works more familiar and better understood. Dante is his own best interpreter; and of the followers of such a master he serves him best who, like Mr. Longfellow, translates him with such fidelity that new proselytes may "in their own language hear his wondrous word."

ART. V. — THE JUDICIARY OF NEW YORK CITY.

THE disgraceful character of the municipal government of New York is notorious. The absolute exclusion of all honest men from any practical control of affairs in that city,* and the supremacy in the Common Council of pickpockets, prize-fighters, emigrant runners, pimps, and the lowest class of liquor-dealers, are facts which admit of no question. But many respectable citizens of New York have been accustomed to console themselves with the belief that at least one department of the local government remained incorrupt; that the judiciary could still be depended upon; and that, whatever might be the fate of the public at the hands of aldermen, justice was yet impartially administered "between man and man." How far this belief is justified by the facts, we shall leave to the judgment of our readers, after they have considered the very small portion of those facts which we are able to disclose.

The large amount of legal business concentrated in the city of New York has made it necessary to establish in it a considerable number of courts, a brief account of which will materially aid those of our readers who do not reside in that city to comprehend the subject. For the sake of brevity, we shall give a merely general statement of the jurisdiction of these

* The present Mayor is a gentleman of high character; but he is comparatively powerless. So a few members of the Common Council are honest and unpurchasable; but they are too few to constitute any check upon the majority, even when a three-fourths vote is required.

courts, not strictly accurate from a lawyer's point of view, but sufficiently so for our present purpose.

The Supreme Court of the State, which is the highest court of original jurisdiction, consists practically of eight distinct tribunals ; the State being divided into eight districts, of which the city forms one, and each district electing four judges, except the city, which, since 1852, has elected five. All litigation beginning in one of these districts is confined to it, as long as the cause remains in the Supreme Court ; and none of the twenty-seven judges living outside the district can interfere with the controversy. An appeal lies from the final judgment in a cause to the Court of Appeals, a tribunal of eight judges, representing the whole State ; but not an eighth of the actions brought ever reach that court ; and almost all questions of practice are decided by the courts below, without the possibility of appeal.

In addition to the Supreme Court, there are in the city two tribunals of substantially co-ordinate jurisdiction ; having cognizance of all civil suits in which the defendants reside or are served with process in the city, or in which the subject of the action is properly situated therein. These courts are the Superior Court and the Court of Common Pleas,—in both of which a great amount of litigation is carried on. The former court now consists of six judges, though from its first organization in 1828, down to 1849, it had only three members. The latter court is in substance, though not in name or form, the oldest in the State, having been established by the Dutch, in 1653, under a different name. It acquired its present name in 1821, and has consisted of three judges since 1839.

There is also a Marine Court (fitly named, its law being well adapted to marines), with three justices, whose jurisdiction is limited to claims of five hundred dollars or less ; and eight civil justices, having jurisdiction over actions of less importance, within their respective districts, each of which includes two or three wards. The business of proving wills and settling the estates of deceased persons is under the charge of a Surrogate for the county.

The criminal courts of the city are the Oyer and Terminer, which is held by a justice of the Supreme Court ; the Court of

General Sessions, which is held by the Recorder and the City Judge alternately ; the Court of Special Sessions, held by two police justices together ; and the Police Justices' Courts, held in different districts of the city. The first two courts have jurisdiction over offences of all kinds, but only try the graver charges of crime, upon which a jury trial is necessary. The other courts have jurisdiction over petty offences, except for the mere purpose of holding prisoners to bail, or committing them to await further action.

Since 1846, all these officers have been elected by the people. The civil and police justices are chosen by small districts, each containing from two to four wards. The other judges are elected by the city at large.

For some years after the introduction of the elective system, the candidates for the more important judicial offices were, with one or two exceptions, men of high character and respectable abilities. The first judges elected to the Supreme Court by the city of New York were lawyers of more than ordinary ability, and one of them had already served upon the bench for twenty years. The Superior Court, for ten or twelve years after its reorganization, steadily grew in public esteem, and far outshone the reputation which it had attained under the old system. The Court of Common Pleas certainly did not retrograde ; the Surrogate's Court acquired a national fame ; and the police and justices' courts were but little worse than they had been before, though it must be admitted that they were bad enough.

The change for the worse which has since taken place may be attributed chiefly to three causes ; namely, the immense increase of the foreign population, the amount of patronage at the disposal of the judges, and, singular as it may seem, the attempt of good men to use the judiciary as a means of protection against municipal robbery.

The first of these causes, which is indeed the almost insuperable obstacle to reform in the city government, is a familiar fact which needs no demonstration. The last census showed that there were in the city 77,475 foreign-born voters, and only 51,500 native ones. Since then, the naturalizations have been so many, that, if the census were taken again at this time, it would show about 100,000 foreign-born voters to 60,000 native

ones, or in that proportion. It is not, however, the mere fact that foreigners are thus largely in the majority which makes good government so difficult ; nor is it even the unanimity with which they support the Democratic party. Good government is maintained in many districts of the United States in which foreigners are largely predominant ; and there are thousands of Democrats in New York who would much prefer honest officials of their own party to dishonest ones. But an immense majority of the foreign population of New York are of an ignorant and demoralized class ; and their mode of living by no means tends to their improvement. John Wesley wisely said that cleanliness was next to godliness ; and judged by this standard, thousands of tenement-houses in New York are to the last degree ungodly. It is impossible that such places should be the homes of intelligent and truly patriotic electors. These people are not degraded by poverty, for in fact they are not so poor as are thousands of excellent men in the agricultural districts ; but they are hopelessly degraded by dirt, foul air, and drink.

Accordingly, this immense class, comprising more than two thirds of the foreign voters, not only support Democratic candidates, but, as between two Democrats, almost always prefer the worst. It was such men who thrice elected Fernando Wood to the Mayoralty, and have twice sent him to Congress. It was by the votes of this class that Judge Bosworth, a life-long Democrat, was ejected from the Superior Court in 1863, although his opponent did not, in all probability, receive the votes of a thousand respectable men. The most signal illustration of the solidity of this foreign vote, and of its utter indifference to moral considerations, was given in 1857, when two Democrats ran for Mayor. One of them, Daniel F. Tiemann, was supported by honest men as an honest man, known and respected by all the community. The other was Fernando Wood, concerning whom it is only necessary to say that no one need fear that he has formed too bad an opinion of the man, and that during the year 1857 he had shown all his worst traits. Mr. Tiemann was elected by 2,328 majority, which, after correcting a manifest error in the tables, was within a hundred votes of the majority of native-born over naturalized voters, accord-

to get in men who would make a positively corrupt use of it. The framers of the Constitution of 1846 took great pains to deprive the judges of all patronage, and for this purpose abolished all offices to which the courts had formerly made appointments, and forbade the judges of the Supreme Court and Court of Appeals from appointing so much as a crier. But of late years, with the increase of population and wealth, there has been a great increase in the number of referable causes ; and thus in effect the courts have had full power to appoint their friends to very lucrative positions. Nominally, the legal fees of a referee in an action are three dollars a day ; but by the custom of the bar he is allowed five dollars, which sum he charges for every day in which he does anything in a cause, even if he merely adjourns it to another day ; while he rarely gives more than two hours at a time to the case. As half the days charged are mere adjournments, arranged by the referee's clerk, and the other half consists of very brief sessions, many of which are, by consent, conducted by the clerk, it will be seen that a steady flow of such business would not be unprofitable, even at the usual rates. But in cases of importance, where both parties are anxious to secure the personal attention, care, and good-will of the referee, he can make his own terms ; and twenty dollars a session is a common fee. Where it is understood that the relations of the referee with the court are such that there is a moral certainty of the confirmation of his report, his fees may run even higher. There are, moreover, many references in special proceedings, the fees in which are not limited by any statute ; and in such cases a referee on good terms with the court can charge what he pleases, say fifty to one hundred dollars a day. Besides this, the Supreme Court has the appointment of three commissioners whenever a street is to be opened, or any private property to be taken for public use. The work is all done by a clerk, and the commissioners draw pay for a hundred days or so, when in fact all their labors have consisted in taking an oath and signing their names once or twice. Of course the same set of men can take charge of a dozen such matters at once, and at the same time carry on any real business that they may have. Receiverships also constitute a valuable subject of judicial patronage ; for though

an honest and faithful receiver has until lately been poorly paid, there is abundant profit to be made by one of a different stamp. A public journal of respectable character recently asserted that, upon the settlement of a certain receiver's accounts, the judge demanded half his fees, which amounted to some ten thousand dollars. We do not know what foundation there is for this statement, nor what judge is referred to ; but we have known of some transactions equivalent to this, though carried on in a more indirect way.

The third cause of judicial deterioration has arisen from the interference of the bench, at a former period, with the frauds of the Common Council. This interference opened the eyes of the plunderers of the public to the necessity of controlling the civil courts, which they had previously overlooked. In 1863, two worthy and capable judges, both Democrats, were denied a renomination by their party, simply because a notorious corruptionist declared that he must and would have one friend on whom he could rely in each of the city courts of record. In 1861, the same man, after making a theatrical display of patriotism and virtue in the nominating convention of his faction, himself proposing the renomination of Messrs. Hoffman and Woodruff for the Superior Court (two of the ablest and most upright judges in the State), and collecting from them a large contribution for what he represented to be legitimate election expenses, sold them out at the eleventh hour for ten thousand dollars cash, paid by friends of the regular Democratic candidates, and substituted tickets with the names of the latter in place of those which he pretended to support. One of the judges thus elected has procured a seat in the New York Constitutional Convention, and can doubtless give valuable suggestions to his associates upon the advantages of an elective judiciary.

The utter incompetency of some of the judges brought upon the bench by the system now prevailing in the city of New York, and the mediocre character, to say the least, of the majority of them, are too well known to be disputed for a moment. The inferiority of the judges to some of the lawyers who practise before them is often painfully evident, not only to the spectators, but to the judges themselves ; and the more

candid of the latter will sometimes openly admit it. But an inferior judge drags down the bar more than he is raised by it; for the arguments of lawyers must be accommodated to the capacity of the court, and learning is too often found to be utterly wasted when bestowed upon the ear of a New York judge. Success at the bar is generally believed — and by none more than by lawyers themselves — to depend largely upon social influence; and that not, as in England or France, an influence acting upon clients, to induce them to bring business, but acting upon the mind of the judge, and swaying his decision. It is certain that some lawyers can always get an injunction or an attachment, and keep it in force for weeks, without a respectable ground for it; that they can obtain or prevent adjournments of their causes to any extent; and that, in short, they can secure every possible favor, even where favors work palpable injustice. Indeed, if a case is at all doubtful, it is hopeless to contest it against certain lawyers before certain judges; and we have known favor go so far, that a shrewd lawyer, having the ear of the court, has been in constant terror lest the latter, by its flagrant partiality for him, should make it impossible to sustain its rulings upon appeal.

One practice has become so common in New York as to excite no remark, although it is fatal to real justice. We refer to the custom of judges allowing counsel to make statements concerning their causes out of court, and in the absence of their opponents. One or two judges are in the almost daily habit of listening to these closet arguments; and it is to be feared that most of them tolerate such practices occasionally. It very naturally follows that the judge who will do this is often utterly indifferent to the argument in open court; and it also follows, in not a few cases, that he pledges his decision beforehand. We have known extensive stock speculations to be conducted on the faith of decisions thus promised; and it is not to be wondered at if the judge was strongly suspected of having an interest, as he certainly had a friend, in the speculation. This, however, is an extreme case, and we mention it only as an example of the natural fruit of so reprehensible a practice.

The influence of the large classes interested in evil prac-

tices might be expected to bear heavily upon courts so weak and ill-constituted. It must be placed to the honor of the Supreme Court that it unanimously affirmed the constitutionality of the Excise Law ; but the course of a certain judge in another court deserves notice, all the more because he is of more than average ability. This law was of course very unpalatable to liquor-dealers of the lower class ; for though it was in no sense a prohibitory law, like that of Maine, it made *real* the previously *nominal* prohibition of the sale of liquor on Sundays. This restriction is as old as the State itself ; but the means provided for its enforcement were never before adequate to the purpose. The new law put sufficient power into hands that were faithful and resolute. The counsel for the liquor-dealers' association honestly told his clients that the law was constitutional, and could not be successfully contested. Not a single lawyer in New York ventured to utter a contrary opinion for some weeks. But at last a well-known lawyer, being retained by a wealthy brewer, gave it as his opinion that the law could not constitutionally apply to liquor-dealers who had taken out licenses under the old law, until those licenses had run out ; on the ground that these licenses were contracts, which the State could not rescind or modify. On this sole ground he applied for an injunction to protect his clients, who had unexpired licenses under the old law. He never argued or asserted that the new law was unconstitutional as a whole, or in its application to those dealers who had no previous licenses, — a class which included nine tenths of all the liquor-dealers in the city. That question was never discussed before the judge at all. Yet he promptly decided, not only that the law was unconstitutional in its application to the vendors already licensed, but also that it was "*wholly void*." And having thus decided a question never raised before him, without himself assigning a single reason or authority for that decision, he ever after refused to hear any argument upon the point, on the ground that it was already decided ! By virtue of this decision, he issued some seven hundred injunctions, and completely stopped the operation of the law for six months ; at the end of which time the Court of Appeals, in accordance with the opinion of nearly every lawyer in the State, adjudged the law to be valid in every respect.

The professional gamblers of New York; who are now represented both in Congress and in the State Legislature, have within a few years past gained a strong hold upon the courts. Several judges have notoriously attained their offices through the influence of this class, and their indisposition to execute the law against their best friends is not a matter for surprise.

The condition to which the highest courts of the city have been reduced can, however, best be realized from a single portrait, — undoubtedly that of one of the worst judges on the bench, (for it is both a pleasure and a duty to say that, whatever may be thought of their abilities, most of the judges in the three principal courts are of unquestionable integrity,) but a fair example of what all must soon be, if the present system is continued.

This man was nominated for the bench against the advice of all the judges, and elected without the support of a dozen respectable lawyers of any party. His knowledge of law from books is confessedly small; but he has a keen perception, and can take in a case with remarkable quickness; so that if a cause is well argued before him, and he listens attentively, without having any bias or prejudice, he can render a decision on the spot with perhaps as much chance of being right as any other judge in the city. This is a great merit, but unfortunately this is all his merit, and the number of “ifs” is large, and fearfully important. If he does not decide at once, he will take the papers to his office, and probably never open them until he has forgotten all that was said; and no judge is less fitted to decide upon the strength of his own mere study than he. Besides, there is no security against his hearing another argument after he leaves the court, and the last word is likely to leave the most impression upon him. He is, moreover, very impatient of, and inattentive to, a long argument, no matter how necessary. A certain case once came before him, in which nearly two hundred thousand dollars was at stake. The defendant was arrested for the embezzlement of this sum, and eminent counsel were arguing for and against his discharge from arrest. The judge listened with such ill-concealed impatience and lack of interest — frequently conversing with some friends behind his desk — that the counsel repeatedly

paused, and waited for him to attend to the case. At length he said : " Mr. —, you always make an admirable brief ; had n't you better submit this case, and let me examine the papers and written arguments ? " It was evident that nothing else could be done, so Mr. —, though with some misgivings, for he was opposing the discharge, which if granted would be fatal to his clients' chances, was obliged to consent. A few days afterward, the order of discharge was granted, and the money lost to its lawful owners. Mr. — had the satisfaction of receiving back his package of papers in such shape as to afford almost conclusive evidence that they had *never been opened* !

Frequently the judge cuts short an argument in a less civil way, by deciding against a party before he has fairly stated his case. On such occasions, he is apt to say blandly to a lawyer who persists in talking : " You can go on all day, if you like, counsellor ; but I have decided this case, and I never take back a decision." Of course he despatches business more promptly than any other judge, and of course he decides the same questions in more diverse ways than any other two judges could manage to do. Accordingly, his associates pay small respect to his decisions. Not long ago, one of his oral opinions being cited as an authority before Judge —, that learned official fixed his gaze upon the advocate, and inquired, with an air of mild surprise, " Do you mean to cite Judge —'s decisions as *law* ? " Whereat the whole bar indulged in a suppressed laugh.

To dignity the judge does not make the slightest pretension. It is his delight to rouse a laugh by some coarse practical joke, and to brave public opinion by open improprieties. Thus, being offended with some criticism which appeared in the *Evening Post*, he said in open court that " William Cullen Bryant was the most notorious liar in the United States." On another occasion, a paper having published a simple report of his behavior in court, the next day, in the crowded courtroom, he took notice of what he called this attack upon him, in language too indecent for repetition. A motion being made before him in 1864, on behalf of one H—, he listened negligently until it was stated that Mr. H— had been imprisoned by order of the War Department on a charge of fraud ;

whereupon the judge literally shouted, "What! was he put in jail by those villains down there?" — meaning the President and Secretary of War. Receiving an affirmative answer, he immediately granted the motion. We might extend the account of such occurrences to an indefinite length, and might select much more offensive incidents; but in this, as in other respects, prefer to reserve some of our ammunition.

The reference business had begun to assume dangerous proportions before this judge took his seat; but it was reserved for him to give it the form of a science. In his own office there were gentlemen whom he deemed to have qualifications for this duty superior to all the rest of the bar. He always granted a motion for reference, and always sent the case, if it was "worth" enough, to one of these gentlemen. Remonstrance was vain; even the agreement of all the parties upon other names did not help the matter. The only limitations to this practice were such as were imposed by the jealousy of the other judges, and by repeated amendments of the law, aimed directly at this system. The other judges he sometimes defied, and sometimes conciliated by giving a share of the references to their relatives and friends. The law he evaded by various shifts, but chiefly by making lawyers understand that it was dangerous to object to his nominations.

It may easily be supposed that he not only had his standing referees, but also a definite list of receivers, when such officers were needed. The nature of his interest in these appointments has long been the subject of speculation among members of the bar, but only a few are acquainted with facts sufficient to enable them to form a definite conclusion.

Some years ago, one of the foremost lawyers in New York, an eminent member, too, of the party by which all the judges are elected, declared publicly that, in order to secure success before certain judges, it was necessary to employ certain lawyers having influence with them. Such indeed is a well-known fact, especially with regard to this judge, to whom the circumstances mentioned by the lawyer we have quoted clearly showed that he referred. Not long ago, certain parties having an important affair in litigation were privately notified that, if they wished to succeed before the judge, they must employ two

lawyers (neither of them having any claim to the business), at a handsome fee.

The partiality of this judge for a certain politician, whose name is synonymous with corruption and treachery, has been manifested by some extraordinary decisions. Several persons who were injured in riots instigated by this man sued him for damages. His counsel, fertile in excuses, delayed the trials for many months, and finally, when the causes came on for trial before a judge from the interior of the State, and all excuses were worn out, the defendant and his counsel deliberately absented themselves from court without any excuse at all. Verdicts were taken against him ; and he moved before this judge of whom we speak to open his default. Although it clearly appeared that the defendant had purposely allowed his default to be taken, the judge relieved him from it, *and ordered costs to be paid to him by the plaintiffs !* This was too much for his associates, who, though they held themselves unable to reverse his order, called his attention to the matter of costs, when he stated that this part of the order was a *mistake !*

Quite recently he issued out of court a peremptory *mandamus* in favor of the same politician against the Controller of the city, without any notice to the latter ; by which the Controller was required to sign a most dishonest contract in obedience to a vote of the Common Council. Another judge was at the time holding the branch of the court from which alone the *mandamus* could properly have issued ; and he immediately stayed proceedings under it, and finally set it aside, declaring the practice adopted to be grossly irregular, and utterly without precedent.

The facts which we have thus far stated, bad as they are, are not, however, so bad as others, concerning which our information is direct and explicit, and which, if it appears to be necessary to convince the public of the necessity of a complete transformation of the judiciary, we shall disclose on a future occasion. We are not actuated by hostility to a man, but to the system which produces such a man. We have singled him out, only because it would be doing gross injustice to most of the other judges to impute such conduct to the

bench at large. The last public episode in this man's history, however, deserves to be recounted here, because it forcibly illustrates the folly of trusting to revenge as a motive to honesty, as well as the ease with which men are deceived by empty professions.

In 1866, this judge of whom we have spoken appeared to have set his heart upon exchanging his judicial duties for an office of a more directly lucrative nature; and failing in this, he made loud professions of his disgust with the "Ring" (as the managing politicians are collectively called), and of his determination to take vengeance upon it. In charging the grand jury, at the opening of one of the circuits, he declared, with perfect truth, that the whole municipal government was utterly rotten, and that nearly every officer under it deserved indictment. He advised the grand jury, however, not to indict any one, on the ground that it would be useless to do so; but with a great flourish announced his intention to grant an injunction against the frauds of the Common Council whenever it should be demanded. And he did grant several such injunctions in the course of the next two or three months.

The innocent public was delighted with this exhibition of judicial courage and incorruptibility. The leading journals raised a chorus of congratulation. And thus a respectable public sentiment was created in favor of a measure intended to make the fortunes of the judge, and of all his hangers-on.

A bill was introduced into the Legislature, requiring the Governor to appoint one of the judges of the court of which this man is a member to hold the special term in chambers, exclusively of all the other judges. It was urged upon the ground that the business of that branch of the court could be transacted much more rapidly, and with greater uniformity of practice, if permanently intrusted to a single judge, than when taken, as it always had been, by the different judges in succession. The bill was supported by letters from many of the most active practitioners in the city, and was pushed by a powerful lobby, comprising representatives of the best and the worst citizens. Extremes met; and the attorneys of the Citizens' Association joined with the most corrupt politicians in helping this bill along. It passed the Legislature, and,

after some hesitation on his part, was signed by the Governor. Then the candidate, who had of course been known to the chief friends of the bill all along, but whose name had been kept back, made his appearance, and was no other than this same judge. An amazing combination of influences was brought to bear in his favor. The most notorious members of the "Ring," and its most bitter opponents, the Citizens' Association, the men whose rascalities had made the Association a necessity, in short, all the rogues, and nine tenths of the honest men who took any part in the matter, were active in the support of this judge. The Governor was assured by all, that the judge had forever broken with the "Ring," and would use the tremendous power which this appointment would give him for the extirpation of official dishonesty. So strong was the pressure, and so certain was his appointment considered, that several papers published it as a completed fact, and the majority of its opponents were afraid to say a word against it. One of the "great dailies," after publishing a very able editorial condemnatory of the law, and intended to warn the Governor against appointing this judge, lost all its courage upon hearing that the appointment was made, and commended it in warm terms. Indeed, the appointment was substantially determined upon, and would certainly have been made, but for the resolute action of a few gentlemen who knew certain facts to which we have but vaguely referred, and disclosed them to the Governor, who refused to proceed until the matter was cleared up. It is only just to the most influential advocate of the judge to say, that he withdrew his recommendation upon being informed of these facts, of which he was of course unaware when he lent his influence to the scheme; as indeed were the other respectable gentlemen to whom we have referred. We have spoken of their recommendation of the judge, not with intent to cast a doubt upon their probity, but as illustrating the skill with which this man managed to win a support indispensable to him in approaching so upright an officer as Governor Fenton.

The scheme failed, as we have said, and months of elaborate hypocrisy had been wasted. The instant that the judge ascertained this, he threw off the mask, and astounded his dupes

by dissolving the injunctions against municipal frauds which he had previously granted with such zeal ; concluding by issuing the unprecedented *mandamus* to which we have before referred. And having owed his defeat in part to the persistent opposition of his associates on the bench, he gave an open manifestation of his spite in a characteristic manner. A lawyer came into chambers while the judge was sitting there, and asked whether a certain other judge was in the inner room, or had been down that day. Judge — tartly replied : “ I don’t know anything about him. I don’t know anything about *any* of them. There is a certain class of men I don’t want to know anything about. When they come up for an election, *then* I mean to know something about them.” A little later in the day he informed the bar that he had “ the most unmitigated contempt ” for all his associate judges, feeling himself “ their superior, morally, socially, and financially.”

The feeling of relief, when it was known that the Governor had determined not to make any appointment under the law, was general ; many who had recommended Judge — being secretly as glad to be saved from him as any one else. For if the plan had been carried out, he would have had nearly as much power in his hands as an Eastern pacha. Property to the amount of twenty million dollars, in the charge of receivers and trustees, lay at his disposal, since he could appoint and remove them at his discretion ; and when the funds were placed in the hands of his friends, they could obtain from him, without giving the slightest notice to creditors or other interested parties, orders for the disposition of the funds in any manner that might suit their and his interests. There would have been no obstinate receivers to refuse fees, or to object to loans without security. This judge alone, of all the court, would have had power to grant or dissolve injunctions, attachments, or orders of arrest ; to appoint referees ; to issue writs of *mandamus*, *habeas corpus*, &c. By a little ingenuity in postponing arguments or decisions, he could indefinitely delay appeals from his orders, even where they were appealable. But in a large class of cases, especially in those which involved the most money, no appeal would lie from his decision. Few lawyers could have carried on business for a week after the

judge had resolved to crush them ; and it was not doubted by any one that his enemies would be made to feel his power. Indeed, it has been publicly stated by an opponent of the project, that he was visited by some of the judge's friends, who assured him that, if he would only retract his opposition, he should have a share of the good things arising out of the scheme ; telling him further, that arrangements had been made to realize enormous profits and a practical monopoly of the paying business for those who befriended the judge.

Our narrative might be greatly extended, if we should insert all the instances of unseasonable and indecent jesting, recklessness, and even worse, on the part of this judge, of which we are informed. We have passed over several such instances within our knowledge (as before intimated), and many concerning which we entertain no doubt, but of which legal evidence could be withheld by the parties interested. About two years ago an investigation into various matters connected with the New York "Ring" was attempted by the Legislature, and it was wonderful to notice how many well-informed parties were detained out of the State by sickness as long as the committee remained in session. The season might be unhealthy again, if a new investigation were commenced ; and we therefore prefer to rely upon the testimony of acclimated witnesses.

The petty civil courts are not worth an extended review. The nature and value of the justice dispensed by them may be easily inferred from the condition of the superior courts. The salaries of the justices are sufficient to command first-class talent, being larger by far than the salaries of the judges of the highest court in the State. The ignorance, incompetency, and pretension of some of these justices may easily be imagined ; of their evasions of duty, under the fear of influences which might be brought to bear against their renomination, we could give some strong illustrations ; but it is not worth the labor.

The criminal courts are universally admitted to be inefficient ; and those who know them best do not hesitate to pronounce them in the main corrupt. The city has on several occasions been fortunate in its choice of a Recorder ; but for

years past no confidence has been placed by well-informed men in a majority of the other criminal judges. If we were to relate half the rumors which are afloat, and which are fully credited, too, by the most intelligent and discreet members of the bar, we should draw a picture as appalling as anything to be found in the books of the Prophets Amos and Micah. But we content ourselves with a statement of a few cases of direct bribery of judges not now on the bench, as examples of what has certainly happened in the past, and with such an account of the present and recent condition of things in the criminal courts as might have been gathered by any careful observer.

Years ago, the master of a small vessel was indicted for a very brutal assault committed on board. The trial had occupied the morning, and was far from its end. The prisoner's counsel therefore proposed a recess for lunch, which was agreed to; and he invited the judge to take the meal with him. The invitation was accepted, and the two went to a place where they found a handsome dinner in waiting, and were joined by the accused party, who was of course on bail. The plates were all laid, with the faces downward, and when the judge turned up his plate, to his surprise, and of course to the amazement of his hosts, a hundred-dollar-bill lay on the cloth. "Why, what is this?" said the astonished judge; and turning to the counsel, he added, "This must belong to you, Mr. —." That gentleman, however, emphatically disclaimed its ownership, and refused to touch it, as also did his client. So, after some more efforts on the part of the judge to rid himself of the burden, the counsel advised him to take charge of the money until the real owner should appear; which he concluded to do. Dinner being over, the trial was resumed. It is scarcely necessary to say that the evidence for the prosecution was not convincing to the judicial mind, and that an acquittal was directed.

At another period, a certain person was indicted for a crime under a statute requiring the indictment to be found within three years from the commission of the offence. This indictment was found on, say, the last day of the month, the crime having been committed on the first day of the next month, three years before. The defendant obtained judgment in his

favor, on the ground that the time for prosecution had expired ; and, by a singular coincidence, on the next day a check for five hundred dollars, drawn by the accused party, was cashed in Wall Street with the indorsement of the judge upon it.

Within a much more recent period, a man was indicted for a series of enormous frauds, by which he had made himself wealthy. The indictment was quashed for some informality, and he openly boasted that he knew how to manage the drawing of future grand-juries so as to secure himself against any renewal of the indictment,—a boast which the failure of all subsequent attempts to indict him seems to justify. We are assured, on the most respectable authority, that the judge received *ten thousand dollars* for his decision.

To come down to the present time, it is indisputable that most of the justices in charge of criminal business in New York are coarse, profane, uneducated men, knowing nothing of law except what they have picked up in their experience on the bench. One of the best of them was a butcher until he became a police justice ; another was formerly a bar-keeper. As a rule, they are excessively conceited and overbearing, and in some cases positively brutal in their demeanor. The officers in attendance naturally take their tone from their superiors, and treat every one who enters the court-room with a roughness which makes attendance upon such places ineffably disgusting.

The reporters who have for years attended the police courts seem never to have thought of presenting any other than the ludicrous side of the events which happen there ; but to all who feel compassion for man as man, these scenes have much in them to excite both pity and indignation. A motley herd of human beings are driven in, morning after morning, like so many oxen, and as summarily knocked on the head if they are in the least refractory, and violently pushed forward if their movements are slow. Called up before the justice, if poor and friendless, they are sentenced before they well understand the charge made against them. If they have counsel, it may be generally assumed that he is one of the low persons, miscalled lawyers, who hang about these courts, and that he has stripped them of every cent, or will do so before they are released.

Perhaps they are committed "for further examination"; and although the law requires a prompt disposal of such cases, a prisoner unable to meet the ravenous demands of the lawyers, or, as they are more appropriately called, "shysters," who have the run of these places and the favor of the magistrates, often lies in jail for weeks unheard. Sometimes a highly respectable man will be kept in durance, at the instance of wealthy enemies, notwithstanding he is abundantly able and willing to give bail.

Where the guilty party is wealthy and unscrupulous, and the accuser poor, the position of affairs is reversed. We remember an instance in which a rich but infamous brothel-keeper had terribly beaten one of the poor wretches in her house. The "prisoner" was on bail, the accuser was detained as a witness. When the case was called, the poor creature came forward, her face all clotted with blood, and her clothes torn to rags, — a ghastly spectacle. The counsel for the accused took her aside, and, under the very eyes of the judge, bullied and coaxed her by turns, threatening her with prosecution as a vagrant, and with the revenge of her mistress, until she agreed not to prosecute the case, on condition of her doctor's bill (say five or ten dollars) being paid. The counsel then announced to the justice that the complaint was withdrawn. The justice shortly asked the complainant if that was so, to which the poor creature sadly answered that she would not withdraw her complaint if she were not so poor; but as it was, she supposed she could not help herself. The justice harshly replied that he had nothing to do with that. The complaint was dismissed; and the miserable woman was promptly bundled out of court by the officers.

In each of these courts there are two well-known "rings," one of "shysters," and the other of professional bail. The latter are always ready to become responsible for prisoners in amounts of from two hundred and fifty to one thousand dollars, upon receipt of a fee ranging from ten to fifty dollars. Their risk is almost nominal, for they have a perfect understanding with the powers that be, and a shrewd method of doing business. They often get abundant security from their principal, and in other cases are generally familiar enough

with his circumstances to feel sure of his appearance. But if they are at all doubtful of this, they can, and often do, surrender their victim within a few days, or even hours, after pocketing his money ; and he is obviously without redress. One very flagrant instance of this kind deserves to be mentioned. A rather noted thief, not, however, without some good qualities, was held to bail in one thousand dollars, and all the sureties offered by him were rejected. At length one of the jailers advised him to ask a well-known politician named B—— to become his surety. B—— consented, on condition that he should be fully secured, and be paid a fee of fifty dollars. Accordingly, five hundred dollars in cash, and a chattel mortgage for five hundred dollars more, were placed in his hands, and the fee paid. But in a few days he surrendered his unlucky principal, and not only kept the fee, but the five hundred dollars besides, returning nothing but the mortgage, and that only after repeated solicitations.

It is not surprising that some of these professional bail are known to make ten thousand dollars or more a year out of the business ; nor can the world be blamed for suspecting that their profits are divided with some other parties. For it is observed that, when all precautions fail, and parties for whom these men become bail abscond, the amount of the bond is rarely or never collected.

The so-called lawyers who secure most of the practice in these courts are generally men of disreputable character, who have an understanding with the officers of the courts and prisons, by which the latter receive a commission on business introduced by them. A prisoner, especially if he is such for the first time, is generally unacquainted with any respectable lawyer, and gladly accepts the recommendation of the officer having him in charge. The person thus introduced, after making a very few inquiries about the case, asks the prisoner, "How much money have you?" Usually, of course, the amount is very small, and the next question is, "How much can you raise?" The answer is, perhaps fifty, perhaps a hundred dollars. "A hundred dollars!" cries the lawyer, contemptuously ; "why, I shall have to give that much to the judge, and twenty to the clerk. D— it, you must squeeze out

two hundred and fifty dollars somehow, or you're gone up." The prisoner asks advice of his keeper, and is told that "Lawyer — knows what he is about," and should be secured at any price. If, after severe pressure, the prisoner declares that he cannot raise the required sum, the lawyer grudgingly accepts whatever he can get. But it must not be supposed that the fees are limited as a rule to two hundred and fifty dollars. These men, whom long experience has made keen in judging of a prisoner's means, take all he has, be the same more or less. If he has only ten dollars in the world, they take that, and really make a good fight upon it; if he has five thousand dollars, they will extract it all out of him, if not interfered with, though of course such opportunities are very rare. We will give some illustrations of the various degrees of plunder.

The case of Lamirande, the French cashier, is fresh in the public memory. He employed a couple of "Tombs lawyers" to protect him, who, upon one pretext or another, got nearly twenty thousand dollars out of him, with part of which they purchased his escape from the officers in charge.

A certain ingenious criminal, after he had long concealed himself in a neighboring town, where he lived in a style of comparative luxury, was at length arrested, together with all his family, — they being accomplices in his crimes. On his way to New York, the officer having him in charge advised him to employ a lawyer at once, and recommended a certain well-known individual, still in active practice, and very influential in some courts, notwithstanding the notoriety of his character. The prisoner accepted the suggestion, and by the advice of the officer placed all his ready money, amounting to nearly two thousand dollars, in the care of this man, who agreed to attend to his case for one hundred dollars, and to return the rest of the money on demand. After having been in jail for some time, awaiting his trial, he sent to his lawyer for money to pay for extra expenses which he had incurred in making his position comfortable; but to all the messengers the lawyer returned a flat denial of his receipt of any money. The prisoner was compelled to resort to other means of provision, and could obtain them only by selling all his furniture, worth over two thousand dollars, to one of the keepers of the prison, for three

hundred dollars. Just before his trial came on, the lawyer called upon the prisoner, plausibly excused his own previous conduct, and assured his client that, with fifteen hundred dollars in addition to what he had already received, he could bribe the judge to reduce the prisoner's sentence to two years' imprisonment, and to let his wife (or mistress) go free. The luckless wretch believed the story, and put a small house, his last remaining property other than a gold watch, into the hands of this man for sale. The house was sold for twelve hundred dollars, — perhaps half its value. This man, whom we are ashamed to call a lawyer, pocketed the whole thirty-two hundred dollars ; and the prisoner and his wife were sentenced the next week to eight and six years' imprisonment respectively !

We do not mention this case as an instance of corruption in the court, for it is entirely certain that the "lawyer" never offered the judge a dollar, nor ever meant to do so ; but when there *are* judges with whom the influence of such a man is powerful, it is impossible not to suspect their purity.

There is a person doing a large business in the criminal courts who has been repeatedly detected in thus stripping prisoners of their all, and who has been compelled in some cases to disgorge, but who still pursues the same line of business with great profit. Thus on one occasion he took from a servant-girl two gold watches (stolen, of course), two trunks full of valuable clothing, and twelve dollars in money, which was all she had ; and on another occasion squeezed fifty dollars out of the friends of a poor negro, upon promises which he well knew could not be fulfilled. This man, who was the special friend of the bounty-jumpers, and largely engaged in filling up the ranks of the army, by means which we shall presently describe, was not long ago a candidate for a high judicial office, and received over twenty-five thousand votes in the city, though he failed to be elected.

The last two years of the war afforded a magnificent opportunity for making money in a strictly patriotic manner, which the criminal judges and lawyers did not fail to improve. The national armies were thinned, the jails were full, and the bounties for enlistment large. How could a judge evince his love of country better than by filling up the ranks of its defenders ?

How could he more judiciously exercise the prerogative of mercy than by extending it to the misled pickpocket, the erring burglar, or the penitent garroter, upon condition that he should do valiant battle for his adopted land? And if a liberal nation provided, as it did, certain pecuniary inducements for enlistment, who shall say that these emoluments could be more fitly disposed of than by appropriating them to the reward of such virtue as we have imagined? To have given them to the recruit himself would have been to reward vice and to waste good money. Accordingly, thousands of men were liberated on condition that they would enlist. Bounties varying from six hundred to fifteen hundred dollars were paid for each man, either by the public, or by private persons hiring substitutes; and the recruits themselves were fortunate indeed if they received twenty-five dollars each. The rest was divided between the lawyers who persuaded prisoners to enlist, the judges who released them on that condition, and the officials who passed the recruit and paid the money.

It is a common practice of the worst judges to make an occasional show of extreme severity, for the purpose of gaining a reputation for Roman firmness, under the cover of which they may let off more dangerous criminals with impunity. A terrific sentence imposed upon some prisoner too poor to employ the right kind of counsel looks well in print; and a few such sentences have been the entire stock in trade of some judges for years. Not long ago, a serious crime was committed by three men, one of whom was a hardened criminal, who had "got up the job," and enticed the others into it. All were convicted, but sentence was indefinitely suspended as to the chief offender, while his far less guilty accomplices were sent to the State prison for long terms.

The Annual Reports of the Police Commissioners, though very guarded in their language, as befits official communications, nevertheless indicate a decided conviction that the administration of justice in the city is corrupt. The Report of 1865, which was made by a board equally divided in politics, and therefore less open to the charge of partiality than more recent Reports, used this language: "In no other such city does the machinery of criminal justice so signally fail to restrain or punish serious

and capital offences. . . . Property is fearfully menaced by fire and robberies ; and persons are in startling peril from criminal violence. This lamentable state of things is due, in a great measure, to a tardy and inefficient administration of justice. . . . As our laws and institutions are administered, they do not afford adequate protection to persons or property. Some remedy must be found and applied, or life in the metropolis will drift rapidly towards the condition of barbarism." These words may seem strong to those who are not familiar with the facts ; but to those who are, the picture seems so weakly drawn as to appear rather the work of an apologist than of an enemy.

We should be sorry to have it thought that the bar of New York is mainly composed of such men as those whom we have described in our account of the police courts. Such is very far from being the case. The majority of the profession are gentlemen who will compare favorably with their brethren in any part of the world. But it cannot be denied that the number of disreputable lawyers is very large, and that the profession as a whole take little interest in keeping up the standard of admission, and are far too much afraid of exposing the corruptions of which they are aware.

The picture we have drawn is a dark one, yet we have purposely understated the evils which exist, and reserved for the present the most damning facts. It is one of the worst signs of the times, that the public have become so accustomed to seeing and hearing of corruption, that the most conclusive evidence falls upon deadened ears. If we should describe the calm indifference with which some of our most upright public men listen to such evidence, we should mortally offend them ; but so it is : they have become so familiar with the sight of official dishonesty, that, while maintaining their own integrity, they cannot rouse a feeling of indignation at the depravity of others. We might simply add to this unfortunate insensitiveness by telling at once all that we know.

It may be asked, however, whether we mean to assert that justice is never to be had in New York. We answer, certainly not. In nine cases out of ten, the worst judges in the city desire to do justice between the opposing parties. Society would be dissolved, or reduced to desperation, if it were not so. But

the same thing might be said in favor of Tresilian, Scroggs, and Jeffreys ; and almost as much is true of the most venal tribunals of the East. We doubt if there ever was a judge who did not decide a majority of the cases before him according to his conscience. The very same judge whom we have known to *extort* a fee from one party has been found perfectly impregnable to bribery from another. But no person of intelligence will imagine that such merits and demerits balance each other. A judge who decides honestly in *most* cases is like a woman who is virtuous six days in every week.

We should insult our readers by offering any argument to prove that the maladministration of justice must have a demoralizing effect upon the whole community. That is an inference which the common sense of every man will draw without our aid. But there are some reasons peculiar to a few large cities, and especially applicable to New York, why these abuses should lead to unusually disastrous results ; and these it is proper to state.

New York, as we have said, contains many more foreigners than natives in its permanent population ; and, being the chief port for the debarkation of immigrants, always contains a vast number of transient residents. Nearly all these immigrants are entirely unacquainted with republican government, and utterly unfamiliar with our political ideas. More than half of them have no ideas whatever upon political subjects, further than the vague notions of personal liberty which every human being has by nature. They come to New York to be trained, and receive there the first impressions of democratic institutions. They or their friends furnish the larger part of the business in the petty courts, and they hear the character of these courts discussed at an early day. What must be the effect upon them of hearing justice commonly spoken of as a thing to be bought, — of being told by their friends and their counsel that the judge must have a fee ? Grant that, in most of the cases in which the fee is paid, it never reaches the judge, yet the moral effect of the act upon the men who pay it is just the same ; and when, upon inquiring of honest and well-informed men, they are told that, whatever may have been the fact in their cases, there is no doubt that the judges are corrupted in other instances, the poor

defrauded creatures cannot but conclude that democracy means universal corruption. Impressed with this conviction, it is only natural that they should look upon politics as a mere contest for the spoils of office, and use their own votes, as soon as acquired, for the most selfish purposes.

Again, New York is a place to which thousands of young men come every year from the country. Any large city offers sufficient temptation to wickedness, in the ordinary course of things,—in the isolation of the young from home influences, in evil companions, in the absence of observation and criticism, and in the abundant opportunities for debauchery. But who can estimate the additional impetus to evil which is given by the notorious corruption of public justice? The example of wickedness thus raised to places of honor is itself fearfully damaging to the virtue of young men. But besides this, the clerk who is tempted to dishonesty hears on every side the assurance that, if he only steals enough, he can buy his discharge from the judge or the jailer; and although, as a general rule, the calculation will fail him, the fact that in many cases it does *not* fail is enough to tempt hundreds to ruin.

It can scarcely be necessary to point out the demoralizing effect of judicial corruption upon the criminal classes of society. They learn to rely upon the profits of their depredations for immunity; and when justice finally overtakes them, the predominant conviction of their minds is that they are only punished because their money was not enough to satisfy the judge. And although this is often an unjust suspicion, how can they be disabused of it, when they know that money has bought their escape before, and have been assured by their adviser that a certain sum, beyond their reach, would do so again? Many of them have paid the required bribe to their “lawyer,” who has never troubled himself to offer it to the judge; and such men naturally go to prison with hearts full of rage and suspicion, not knowing whom to blame, and therefore cursing the whole world. Such a state of mind makes reform almost impossible, and breeds feelings of revenge which naturally find vent in new crimes.

There are some good people who comfort themselves with the belief that the very extremity of corruption to which all the

public affairs of New York are tending will work its own cure by so disgusting the people as to cause a reaction. But the process which is now going on debauches the public conscience almost as much as it robs the public purse. Every successive reaction is fainter. Efforts were made in 1853, 1857, 1863, and 1865 to stem the current, and each time with less energy, less unity, and less effect. Even the most respectable classes are growing callous. They are satisfied that corruption is inevitable, and in many instances are only anxious that their party should have its share of the public plunder. We have already referred to the fact that it is thought a matter of course for a judge to listen to *ex parte* representations. A judge recently told a lawyer of our acquaintance, without the least idea of having committed an impropriety, and as if it were the most natural thing in the world, that the adverse party had visited him privately, to speak about the case, almost daily for months; and his decision bore the plainest marks of the influence of these secret arguments, although no thought of corruption was in the mind of either the party or the judge. By the constant occurrence of such transactions, passing as they do without a word of censure, the conscience of the bench, the bar, and the whole community becomes enervated; and finally the utmost abominations are accepted with a mere shrug of the shoulders or a languid expression of regret. An illustration of this occurred very lately within our knowledge. One of the most respectable junior members of the bar was endeavoring to secure promotion for a certain judicial officer, when he was informed, upon authority which he could not doubt, that this officer had been guilty of some outrageous acts of plunder. Yet, believing that his own clients would not be endangered, he listened with indifference, and continued to give his support to a man whom he must have believed would make a dishonest use of his judicial position, although he himself would have utterly refused to use any corrupt influences. The same story might in substance be related of older and more eminent lawyers, in whose personal integrity the utmost confidence might justly be placed. The sense of honor in their own affairs is as strong as ever in such men; but the atmosphere in which they live has made them almost insensible to the degradation of public men. They

have ceased to expect honesty from any man in office ; and the lack of that quality in a judge excites no more surprise than the untruthfulness of a servant-girl, or the uncleanness of a coal-heaver.

In all this there is nothing to warrant indiscriminate censure. It is all very well for lawyers in other cities, where no such state of affairs has been known, to say that *they* would not thus tolerate a degraded bench. Let them consider what they would do, if forced to endure it. Should they denounce and defy the judges ? That would be equivalent to renouncing the bar. Should they give up practice ? That would be to leave the public wholly at the mercy of unscrupulous men. Do they think that they could practise before such judges as we have described, for ten years continuously, and yet retain to the end as keen a sense of their improprieties as they had at first ? If so, they must be more than human. The bar of New York has struggled against the downward course of things to the last, and is even now generally desirous of reform. But the moral tone of the whole community is inevitably lowered by such an administration of public affairs as New York has long had ; and the wonder is that the bar retains so many good qualities, and so much desire for an upright judiciary, as it unquestionably does.

The Convention which is now revising the Constitution of the State of New York has a most solemn responsibility upon its hands. A large majority of its members undoubtedly favor such a reform of the judicial system as shall restore to the city an honest and efficient judiciary ; but they feel justly anxious for the support of their constituents. It would be a grave disaster if the reforms proposed by this body should fail at the polls. We shall not indicate to them any particular plan, but would strongly urge that, whatever plan they may adopt, it should be one which shall *manifestly* tend to secure the best men of all parties for judicial office. This is no time to seek for mere party advantages in a matter so vital to the welfare of the State, yet so far removed from national politics. Good men of all political opinions must unite upon this single issue, or the greatest city of America will soon fulfil the gloomy forebodings of the Police Commissioners, and sink into hopeless barbarism.